

AMENDED IN ASSEMBLY AUGUST 9, 2006

AMENDED IN ASSEMBLY AUGUST 7, 2006

AMENDED IN ASSEMBLY JUNE 20, 2006

AMENDED IN SENATE APRIL 20, 2006

AMENDED IN SENATE APRIL 6, 2006

SENATE BILL

No. 1755

Introduced by Senator Chesbro

February 24, 2006

An act to add Sections *14521.1* 14522.3, 14526.1, 14528.1, 14550.5, ~~and 14550.6~~ *14571.1, 14571.2, and 14571.5* to, and to repeal and add Section 14525 of, the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

SB 1755, as amended, Chesbro. Medi-Cal: adult day health care services.

The California Adult Day Health Care Act provides for the licensure and regulation of adult day health centers, with administrative responsibility for this program shared between the State Department of Health Services and the California Department of Aging pursuant to an interagency agreement.

The Adult Day Health Medi-Cal Law establishes adult day health care services as a Medi-Cal benefit for Medi-Cal beneficiaries who meet certain criteria. Under existing law, participation in an adult day health care program requires prior authorization by the State Department of Health Services.

This bill would revise the eligibility criteria for adult day health care services.

The bill would allow initial and subsequent treatment authorization requests to be granted for up to six calendar months. It would require that treatment authorization requests be initiated by the adult day health care center and include specified elements, and that authorization or reauthorization of a treatment request be granted only if the participant meets certain medical necessity criteria.

The bill would require that a participant's personal health care provider, as defined, have and retain responsibility for the participant's care. The bill would impose specified duties on an adult day health care center with respect to a participant who does not have a personal health care provider.

Existing law requires adult day health centers to offer, and provide directly on the premises, specified services.

This bill would require adult day health centers to offer, and provide directly on the premises, in accordance with the participant's individual plan of care, and subject to authorization, specified core services to each participant during each day of the participant's attendance at the center, including nursing services, personal care or social services, therapeutic activities, and one meal.

~~The bill would allow an adult day health care center to provide one or more of the specified core services at an enhanced level if any of certain conditions occurs.~~

Existing law requires the department to develop a rate methodology for adult day health care services.

This bill would require the department, in addition, effective August 1, 2010, to establish a reimbursement methodology and a reimbursement limit for adult day health care services on a prospective cost basis for services that are provided to each participant, pursuant to his or her individual plan of care, as specified. The bill would require that these provisions be implemented only to the extent that federal financial participation is available.

The bill would require that federally qualified health centers be reimbursed on a prospective payment system rate basis pursuant to specified provisions of law for the provision of adult day health care services.

The bill would require the department to report annually to the relevant policy and fiscal committees of the Legislature, as part of the budget submitted by the Governor to the Legislature each January, on

the implementation of the changes described above to the adult day health care program, including the impact of those changes on the number of centers and participants.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 14521.1 is added to the Welfare and*
2 *Institutions Code, to read:*

3 *14521.1. (a) Effective January 1, 2007, the department shall*
4 *report annually to the relevant policy and fiscal committees of*
5 *the Legislature, as part of the budget submitted by the Governor*
6 *to the Legislature each January, on the implementation of*
7 *changes made to the adult day health care program by the act*
8 *adding this section, including the impact of those changes on the*
9 *number of centers and participants.*

10 *(b) Where a conflict exists between existing regulations and*
11 *adult day health care laws in effect on and after January 1, 2007,*
12 *the department shall, until new regulations are adopted, issue*
13 *guidance to adult day health care providers through provider*
14 *bulletins to clarify the adult day health care laws and regulations*
15 *that are in effect.*

16 ~~SECTION 1.~~

17 *SEC. 2. Section 14522.3 is added to the Welfare and*
18 *Institutions Code, to read:*

19 *14522.3. The following definitions shall apply for the*
20 *purposes of this chapter:*

21 *(a) "Activities of daily living" (ADL) means activities*
22 *performed by the participant for essential living purposes,*
23 *including bathing, dressing, self-feeding, toileting, ambulation,*
24 *and transferring.*

25 *(b) "Instrumental activities of daily living" (IADL) means*
26 ~~*activities performed for the purpose of functioning within a*~~
27 ~~*participant's home and community environment. functions or*~~
28 ~~*tasks of independent living, including hygiene, medication*~~
29 ~~*management, transportation, money management, shopping,*~~
30 ~~*meal preparation, laundry, accessing resources, and housework.*~~

1 (c) “Personal health care provider” means the participant’s
2 personal physician, physician’s assistant, or nurse practitioner,
3 operating within his or her scope of practice.

4 (d) “Care coordination” means the process of obtaining
5 information from, or providing information to, the participant,
6 the participant’s family, the participant’s primary health care
7 provider, or social-service services agencies to facilitate the
8 delivery of services designed to meet the needs of the participant,
9 as identified by one or more members of the multidisciplinary
10 team.

11 (e) “Facilitated participation” means an interaction to support
12 a participant’s involvement in a group or individual activity,
13 whether or not the participant takes active part in the activity
14 itself.

15 (f) “Group work” means a social work service in which a
16 variety of therapeutic methods are applied within a small group
17 setting to promote participants’ self-expression and positive
18 adaptation to their environment.

19 (g) “Professional nursing” means services provided by a
20 registered nurse or licensed vocational nurse functioning within
21 his or her scope of practice.

22 (h) “Psychosocial” means a participant’s psychological status
23 in relation to the participant’s social and physical environment.

24 ~~SEC. 2.~~

25 *SEC. 3.* Section 14525 of the Welfare and Institutions Code
26 is repealed.

27 ~~SEC. 3.~~

28 *SEC. 4.* Section 14525 is added to the Welfare and
29 Institutions Code, to read:

30 14525. Any adult eligible for benefits under Chapter 7
31 (commencing with Section 14000) shall be eligible for adult day
32 health care services if that person meets all of the following
33 criteria:

34 (a) The person is 18 years of age or older and has one or more
35 chronic or postacute medical, cognitive, or mental health
36 conditions, and a physician, nurse practitioner, or other health
37 care provider has, within his or her scope of practice, requested
38 adult day health care services for the person.

39 (b) The person has functional impairments in two or more
40 activities of daily living, instrumental activities of daily living, or

1 ~~a combination of both one or more of each~~, and requires
2 assistance or supervision in performing these activities.

3 (c) The person requires ongoing or intermittent protective
4 supervision, skilled observation, assessment, or intervention by a
5 skilled health or mental health professional to improve, stabilize,
6 maintain, or minimize deterioration of the medical, cognitive, or
7 mental health condition.

8 (d) The person requires adult day health care services, as
9 defined in Section 14550, that are individualized and planned,
10 including, when necessary, the coordination of formal and
11 informal services outside of the adult day health care program to
12 support the individual and his or her family or caregiver in the
13 living arrangement of his or her choice and to avoid or delay the
14 use of institutional services, including, but not limited to, hospital
15 emergency department services, inpatient acute care hospital
16 services, inpatient mental health services, or placement in a
17 ~~nursing facility or an intermediate care facility for the~~
18 ~~developmentally disabled.~~ *nursing facility or a nursing or*
19 *intermediate care facility for the developmentally disabled*
20 *providing continuous nursing care.*

21 (e) *Notwithstanding the criteria established in subdivisions (a)*
22 *to (d), inclusive, of this section, any person who is a resident of*
23 *an intermediate care facility for the developmentally*
24 *disabled—habilitative shall be eligible for adult day health care*
25 *services if that resident has disabilities and a level of functioning*
26 *that are of such a nature that, without supplemental intervention*
27 *through adult day health care, placement to a more costly*
28 *institutional level of care would be likely to occur.*

29 ~~SEC. 4.~~

30 SEC. 5. Section 14526.1 is added to the Welfare and
31 Institutions Code, to read:

32 14526.1. (a) Initial and subsequent treatment authorization
33 requests may be granted for up to six calendar months.

34 (b) Treatment authorization requests shall be initiated by the
35 adult day health care center, and shall include all of the
36 following:

37 (1) The signature page of the history and physical form that
38 shall serve to document the request for adult day health care
39 services. A complete history and physical form, including a
40 request for adult day health care services signed by the

1 participant's personal health care provider, shall be maintained in
2 the participant's health record. This history and physical form
3 shall be developed by the department and published in the
4 inpatient/outpatient provider manual. The department shall
5 develop this form jointly with the statewide association
6 representing adult day health care providers.

7 (2) The participant's individual plan of care, approved and
8 signed by the participant's personal health care provider or,
9 pursuant to Section 14528.1, the adult day health care center staff
10 physician, and by the appropriate members of the
11 multidisciplinary team, pursuant to Section 54211 of Title 22 of
12 the California Code of Regulations.

13 ~~(b)~~

14 (c) Every six months, the adult day health care center shall
15 initiate a request for an updated history and physical form from
16 the participant's personal health care provider using a standard
17 update form that shall be maintained in the participant's health
18 record. This update form shall be developed by the department
19 for that use and shall be published in the inpatient/outpatient
20 provider manual. The department shall develop this form jointly
21 with the statewide association representing adult day health care
22 providers.

23 ~~(e)~~

24 (d) Authorization or reauthorization of an adult day health care
25 treatment authorization request shall be granted only if the
26 participant meets all of the following medical necessity criteria:

27 (1) The participant has one or more chronic or post acute
28 medical, cognitive, or mental health conditions that are identified
29 by the participant's personal health care provider as requiring one
30 or more of the following, without which the participant's
31 condition will likely deteriorate and require emergency
32 department visits, hospitalization, or other institutionalization:

33 (A) Monitoring.

34 (B) Treatment.

35 (C) Intervention.

36 (2) The participant has a condition or conditions resulting in
37 both of the following:

38 (A) Limitations in the performance of two or more activities of
39 daily living or instrumental activities of daily living, as those

1 terms are defined in Section ~~14522.1, or a combination of~~
2 ~~14522.3, or~~ one or more from each category.

3 (B) A need for assistance or supervision in performing the
4 activities identified in subparagraph (A) as related to the
5 condition or conditions specified in paragraph (1) of subdivision
6 ~~(e)~~ (d). That assistance or supervision shall be in addition to any
7 other nonadult day health care support the participant is currently
8 receiving in his or her place of residence.

9 (3) The participant's network of non-adult day health care
10 center supports is insufficient to maintain the individual in the
11 community, demonstrated by at least one of the following:

12 (A) The participant lives alone and has no family or caregivers
13 available to provide sufficient and necessary care or supervision.

14 (B) The participant resides with one or more related or
15 unrelated individuals, but they are unwilling or unable to provide
16 sufficient and necessary care or supervision to the participant.

17 (C) The participant has family or caregivers available, but
18 those individuals require respite in order to continue providing
19 sufficient and necessary care or supervision to the participant.

20 (4) A high potential exists for the deterioration of the
21 participant's medical, cognitive, or mental health condition or
22 conditions in a manner likely to result in emergency department
23 visits, hospitalization, or other institutionalization if adult day
24 health care services are not provided.

25 (5) The participant's condition or conditions require adult day
26 health care services specified in subdivisions (a) to ~~(e)~~ (d),
27 inclusive, of Section 14550.5, on each day of attendance, that are
28 individualized and designed to maintain the ability of the
29 participant to remain in the community and avoid emergency
30 department visits, hospitalizations, or other institutionalization.

31 ~~(d)~~

32 (e) Reauthorization of an adult day health care treatment
33 authorization request shall be granted when the criteria specified
34 in subdivision ~~(e)~~ (d) have been met and the participant's
35 condition would likely deteriorate if the adult day health care
36 services were denied.

37 ~~SEC. 5.~~

38 SEC. 6. Section 14528.1 is added to the Welfare and
39 Institutions Code, to read:

1 14528.1. (a) The personal health care provider, as defined in
2 Section 14552.3, shall have and retain responsibility for the
3 participant's care.

4 (b) If the participant does not have a personal health care
5 provider during the initial assessment process to determine
6 eligibility for adult day health care, the adult day health care
7 center staff physician may conduct the initial history and physical
8 for the participant.

9 (c) The adult day health care center shall make all reasonable
10 efforts to assist the participant in establishing a relationship with
11 a personal health care provider.

12 (d) If the adult day health care center is unable to locate a
13 personal health care provider for the participant, or if the
14 participant refuses to establish a relationship with a personal
15 health care provider, the adult day health *care* center shall do
16 both of the following:

17 (1) Document the lack of personal health care provider
18 relationship in the participant's health record.

19 (2) Continue to document all efforts taken to assist the
20 participant in establishing a relationship with a personal health
21 care provider.

22 (e) (1) A personal physician for one or more of an adult day
23 health care center's enrolled participants may serve as the adult
24 day health care staff physician.

25 (2) When a personal physician serves as the staff physician,
26 the physician shall have a personal care services arrangement
27 with the adult ~~care~~ *health day health care* center that meets the
28 criteria set forth in Section 1395nn(e)(3)(A) of Title 42 of the
29 United States Code.

30 (3) A personal care physician, an adult day health care staff
31 physician, or an immediate family member of the personal care
32 physician or adult day health care staff physician, shall comply
33 with ownership interest restrictions as provided under Section
34 654.2 of the Business and Professions Code.

35 ~~SEC. 6.~~

36 *SEC. 7.* Section 14550.5 is added to the Welfare and
37 Institutions Code, to read:

38 14550.5. Adult day health *care* centers shall offer, and
39 provide directly on the premises, in accordance with the
40 participant's individual plan of care, and subject to authorization

1 pursuant to Section 14526, the following core services to each
2 participant during each day of the participant's attendance at the
3 center:

4 (a) One or more of the following ~~core~~ *professional* nursing
5 services:

6 (1) Observation, assessment, and monitoring of the
7 ~~participant's health status and changes in his or her condition and~~
8 ~~risk factors.~~ *participant's general health status and changes in*
9 *his or her condition, risk factors, and the participant's specific*
10 *medical, cognitive, or mental health condition or conditions upon*
11 *which admission to the adult day health care center was based.*

12 ~~(2) Management of chronic conditions using standard~~
13 ~~monitoring procedures at defined intervals and as necessary due~~
14 ~~to any change in the participant's condition.~~

15 ~~(3) Monitoring of the participant's medication regimen, and~~
16 ~~the administration and recording of the participant's prescribed~~
17 ~~medications.~~

18 *(2) Monitoring and assessment of the participant's medication*
19 *regimen, administration and recording of the participant's*
20 *prescribed medications, and intervention, as needed, based upon*
21 *the assessment and the participant's reactions to his or her*
22 *medications.*

23 ~~(4)~~
24 (3) Oral or written communication with the participant's
25 ~~personal physician~~ *health care provider, other qualified health*
26 *care or social service provider*, or the participant's family or
27 other caregiver, regarding changes in the participant's condition,
28 signs, or symptoms.

29 ~~(5)~~
30 (4) Supervision of the provision of personal care services for
31 the participant, *and assistance, as needed.*

32 (5) *Provision of skilled nursing care and intervention, within*
33 *scope of practice, to participants, as needed, based upon an*
34 *assessment of the participant, his or her ability to provide*
35 *self-care while at the adult day health care center, and any*
36 *health care provider orders.*

37 (b) One or ~~more~~ *both* of the following core personal care
38 services or social services:

39 (1) One or both of the following personal care services:

1 (A) Supervision of, or ~~standby~~ assistance with, activities of
2 daily living or instrumental activities of daily living.

3 (B) Protective group supervision and interventions to assure
4 participant safety and to minimize the risk of injury, accident,
5 inappropriate behavior, or wandering.

6 (2) One or more of the following social services *provided by*
7 *the adult day health care center social worker or social worker*
8 *assistant*:

9 (A) Observation, assessment, and monitoring of the
10 participant's psychosocial status.

11 (B) Group work to address psychosocial issues.

12 (C) Care coordination.

13 (c) At least one of the following therapeutic activities *provided*
14 *by the adult day health care center activity coordinator or other*
15 *trained adult day health care center personnel*:

16 (1) Group or individual activities to enhance the social,
17 physical, or cognitive functioning of the participant.

18 (2) Facilitated participation in ~~scheduled~~ group or individual
19 activities for those participants whose frailty or cognitive
20 functioning level precludes them from active participation *in*
21 *scheduled activities*.

22 (d) One meal per day of attendance, ~~with the provision of a~~
23 ~~special or therapeutic diet as needed.~~ *in accordance with Section*
24 *54331 of Title 22 of the California Code of Regulations.*

25 ~~SEC. 7. Section 14550.6 is added to the Welfare and~~
26 ~~Institutions Code, to read:~~

27 ~~14550.6. The adult day health care center may provide one or~~
28 ~~more of the core services, as described in Section 14550.5, at an~~
29 ~~enhanced level if any of the following conditions occurs:~~

30 ~~(a) An expected condition, event, symptom, or group of~~
31 ~~symptoms that reaches a level of acuity, based on an assessment~~
32 ~~of the participant, requiring intervention by a member of the~~
33 ~~multidisciplinary team on a one-to-one basis or within a small~~
34 ~~group treatment setting.~~

35 ~~(b) An expected condition, event, symptom, or group of~~
36 ~~symptoms that reaches a level of acuity, based on an assessment~~
37 ~~of the participant, requiring intervention or assistance by one or~~
38 ~~more trained adult day health care personnel.~~

39 ~~(c) An unexpected condition, event, or symptom, or group of~~
40 ~~symptoms, that reaches a documented level of acuity requiring~~

1 ~~intervention by a member of the multidisciplinary team on a~~
2 ~~one-to-one basis or within a small group setting.~~

3 ~~(d) An unexpected condition, event, symptom, or group of~~
4 ~~symptoms that reaches a documented level of acuity requiring~~
5 ~~intervention or assistance by one or more trained adult day health~~
6 ~~care personnel.~~

7 *SEC. 8. Section 14571.1 is added to the Welfare and*
8 *Institutions Code, to read:*

9 *14571.1. The Legislature finds and declares all of the*
10 *following:*

11 *(a) Adult day health care is a necessary component in*
12 *achieving an integrated home- and community-based long-term*
13 *care system consistent with the principles of the decision of the*
14 *United States Supreme Court in Olmstead v. L.C. by Zimring*
15 *(1999) 527 U.S. 581.*

16 *(b) The federal Centers for Medicare and Medicaid Services*
17 *has directed the State of California to segregate certain skilled*
18 *services from the all-inclusive per diem rate currently in use for*
19 *adult day health care centers and to bill for those services using*
20 *separate billing codes and reimbursement rates.*

21 *(c) The reimbursement methodology for adult day health care*
22 *services that is established by the department should provide for*
23 *fair and equitable reimbursement to adult day health care*
24 *centers for services that are provided to each participant.*

25 *SEC. 9. Section 14571.2 is added to the Welfare and*
26 *Institutions Code, to read:*

27 *14571.2. (a) Subject to the provisions of this section, the*
28 *department shall establish, effective August 1, 2010, a*
29 *reimbursement methodology and a reimbursement limit for adult*
30 *day health care services on a prospective cost basis for services*
31 *that are provided to each participant, pursuant to his or her*
32 *individual plan of care. The prospective reimbursement*
33 *methodology shall be determined by the department after*
34 *consultation with the California Association for Adult Day*
35 *Services and other interested stakeholders.*

36 *(b) The following definitions shall apply for purposes of this*
37 *section:*

38 *(1) "Daily core services" means the services described in*
39 *Section 14550.5.*

(2) “Separately billable services” means services designated by the department, after consultation with the California Association for Adult Day Services, and shall include, but not be limited to, the following:

- (A) Physical therapy services.
- (B) Occupational therapy services.
- (C) Speech and language pathology services.
- (D) Mental health services.
- (E) Registered dietitian services.
- (F) Transportation services.

(c) (1) The prospective reimbursement methodology for the daily core services provided by each adult day health care center shall be determined by the department based on the reasonable cost of providing all of the adult day health care services included within the core services and adjusted to the particular rate year. Services and costs included in the calculation of the daily core services rate shall include, but not be limited to, all of the following:

(A) (i) Fixed or capital-related costs representing depreciation, leases and rentals, interest, leasehold improvements, and other amortization.

(ii) Capital costs shall be included based on a fair rental value system.

(B) (i) Labor costs other than those for the separately billable services, including direct and indirect labor and contracted staff hours required by law or regulation.

(ii) Direct patient care labor costs shall be paid at a specified discrete percentile to ensure maintenance of quality of care.

(C) Passthrough costs, meaning those cost components externally determined and not under the ability to be controlled or managed by the adult day health care center, shall be paid at each center’s incurred cost and adjusted to the applicable rate year, including all of the following:

- (i) Property taxes.
- (ii) Worker’s compensation insurance.
- (iii) Liability insurance.

(D) All other costs exclusive of fixed or capital-related costs, leases or rentals, interest, leasehold improvements, and other amortization.

1 (E) Add-ons, adjustments, and audit adjustments determined
2 annually in the calculation of the core rate to allow for changes
3 specified in subdivision (h), until those changes are reflected in
4 the cost report.

5 (F) In-kind contributions, which shall be assigned a fair
6 market value for the purposes of calculating the daily core
7 bundled rate.

8 (G) Cost components required to comply with licensing and
9 certification laws and regulations.

10 (d) (1) The daily reimbursement rates for the separately
11 billable services shall be determined based upon the reasonable
12 cost of providing each service by peer group, how each of the
13 individual billable services is defined, and which professional is
14 providing the service, subject to the scope of his or her license.

15 (2) In establishing the total reimbursement limit, direct patient
16 care labor costs shall be paid at a specified discrete percentile to
17 ensure maintenance of quality of care.

18 (e) The department shall determine a reimbursement limit
19 applicable to each adult day health center peer group established
20 pursuant to subdivision (m), taking into account total overall
21 average costs per day of attendance for providing the entire
22 array of adult day health care services, including the daily core
23 services and the separately billable services.

24 (f) By July 1, 2007, the department shall develop, after
25 consultation with the California Association for Adult Day
26 Services, all of the following:

27 (1) An adult day health care center cost report meeting the
28 requirements of subdivision (j) and a list of individual
29 components to be included in the core rate calculation.

30 (2) The methodology and documentation necessary to
31 establish the reimbursement rate for the separately billable
32 services.

33 (3) The reimbursement rates for transportation services.
34 Payments for transportation services shall be subject to the limit
35 on the daily reimbursement and shall be reimbursed whether the
36 center provides transportation directly, by use of contracted
37 transportation, or both. The department shall review
38 methodologies for payment for transportation services. The
39 review of payment methodologies shall include a survey of other
40 states' adult day health care transportation systems, and

1 transportation reports or expert consultation relevant to
2 nonemergency medical transportation services in the community.

3 (g) (1) By January 1, 2008, the department shall facilitate the
4 training of providers in collaboration with the California
5 Association for Adult Day Services. The adult day health care
6 centers shall be trained in the all of the following elements:

7 (A) The use of the modified cost report, supplemental reports,
8 and the accounting and reporting manual.

9 (B) Plan of care documentation required to support the
10 separately billable rate components.

11 (C) Medical necessity and eligibility requirements and
12 documentation.

13 (2) By January 1, 2008, the department, after consultation
14 with the California Association for Adult Day Services, shall
15 establish facility peer groupings as specified in subdivision (m).

16 (h) By July 1, 2008, the department, after consultation with the
17 California Association for Adult Day Services, shall establish a
18 methodology for calculation of the reimbursement limit, rates for
19 the daily core services, and applicable percentiles limiting
20 specific cost categories within the core rate.

21 (i) (1) By March 30, 2010, a preliminary estimate of the
22 reimbursement limit, the reimbursement rate for individual adult
23 health care services, and separately billable services shall be
24 established and provided to the California Association for Adult
25 Day Services and other interested stakeholders. The department
26 shall allow an appropriate stakeholder comment period
27 following this action.

28 (2) The information supplied to all interested stakeholders in
29 paragraph (1) shall be compared to what would have been paid
30 under the rate methodology in effect for the 2009–10 fiscal year.

31 (3) Based on the rate comparisons, a methodology to provide
32 for a multiyear phase-in of the new prospective payment may be
33 implemented.

34 (4) At the time of implementation, no adult day health care
35 center's payment shall be decreased by more than 10 percent
36 below the rate paid in the rate year immediately preceding the
37 first year that the rate methodology prescribed in this section is
38 implemented. In the second and third rate years, no adult day
39 health care center reimbursement rate shall be decreased by
40 more than 10 percent below the adult day health care center's

1 reimbursement rate on file at the time of the application of the
2 next year's reimbursement rate.

3 (j) (1) The department, with input from the California
4 Association for Adult Day Services and all interested
5 stakeholders, shall develop the cost reporting form and
6 determine the costs that are to be included and excluded from the
7 annual cost reporting methodology.

8 (2) Cost reporting shall be consistent with Section 1861 of the
9 federal Social Security Act (42 U.S.C. Sec. 1395x) and Part 413
10 of Title 42 of the Code of Federal Regulations.

11 (3) Cost reporting shall include itemization of the costs of all
12 adult day health care services such that information necessary to
13 determine costs associated with the core bundle of services and
14 each of the separately billable services can be collected.

15 (4) The cost report or supplemental report to the cost report,
16 as determined by the frequency the data will be required for
17 calculation of the core rate, shall collect staffing level and salary
18 data for all direct and indirect patient care staff, arranged
19 through either employment or contract.

20 (5) All adult day health care centers participating in the
21 Medi-Cal program shall maintain books and records according
22 to generally accepted accounting principles and the uniform
23 accounting systems adopted by the state, and shall submit annual
24 cost reports directly to the department.

25 (k) (1) The department may exclude any cost report or portion
26 thereof that it deems to be inaccurate, incomplete, or
27 unrepresentative, consistent with the policies established in
28 paragraph (2) of subdivision (j). For facilities that fail to file cost
29 reports with the department pursuant to this section, the
30 department shall reimburse those facilities at 10 percent below
31 the lowest reimbursement limit established in the facility's peer
32 group pursuant to subdivision (d).

33 (2) Cost report data shall be validated by using comparisons
34 to salary surveys and health industry administrative data
35 maintained by the Office of Statewide Health Planning and
36 Development and other state agencies. If cost report data is not
37 statistically valid for a given peer group, survey statistics shall
38 be used as a proxy to substitute for the cost report data.

1 (3) *Cost report data for any adult day health care center that*
2 *has closed or is no longer a Medi-Cal participating facility shall*
3 *be excluded from the rate calculation.*

4 (4) *The specific process for maintaining cost data and*
5 *submitting cost reports shall be developed after consultation with*
6 *the California Association for Adult Day Services.*

7 (l) *Field audits shall be performed by the department in*
8 *accordance with all of the following laws and regulations:*

9 (1) *Section 1861 of the Social Security Act (42 U.S.C. Sec.*
10 *1395x) and Title XVIII of the Social Security Act (42 U.S.C. Sec.*
11 *1395 et seq.).*

12 (2) *Sections 413.9, 483.10, and 433.32, and Part 413, of Title*
13 *42 of the Code of Federal Regulations.*

14 (3) *Centers for Medicare and Medicaid Services Publication*
15 *15-1 (federal Department of Health and Human Services*
16 *Manual).*

17 (4) *Chapter 5 (commencing with Section 54001) of Division 3*
18 *of Title 22 of, and Chapter 10 (commencing with Section 78001)*
19 *of Division 5 of, the California Code of Regulations.*

20 (5) *Sections 14170 and 14171.*

21 (6) *Relevant portions of the California Medicaid State Plan.*

22 (m) (1) *In accordance with field audit requirements, adult day*
23 *health care centers shall be placed in a minimum of five*
24 *designated peer groupings. Each adult day health care center in*
25 *each of the designated peer groupings shall be audited on an*
26 *annual basis.*

27 (2) *If for any reason a field audit was not performed, the*
28 *average audit adjustment of the peer grouping shall be applied.*

29 (3) *The peer groupings shall include, at minimum, geographic*
30 *differences, size of facility, staff-to-participant ratios, and*
31 *governance status. The need for additional groupings shall be*
32 *periodically reevaluated to ensure that the peer groupings*
33 *remain relevant on a statewide basis.*

34 (n) (1) *An audit adjustment or adjustments, either specific to*
35 *an adult day health care center or by peer grouping, reflecting*
36 *the difference between reported and audited costs and*
37 *participant days for field audited centers, shall be applied to all*
38 *adult day health care centers for purposes of establishing the*
39 *core services reimbursement rate and the reimbursement limit*

1 *for the following rate year. Audit adjustments shall include all of*
2 *the following:*

3 *(A) The results of settled appeals. The department shall*
4 *consider only the findings of audit appeal reports that are issued*
5 *more than 180 days prior to the beginning of the new rate year.*

6 *(B) In the case of peer grouping audit adjustments, audited*
7 *costs shall be modified by a factor reflecting share-of-cost*
8 *overpayments and share of cost underpayments.*

9 *(C) The results of federal audits, when reported to the state,*
10 *shall be applied in determining audit adjustments.*

11 *(D) (i) An adjustment or adjustments to reported costs of*
12 *adult day health care centers shall be made to reflect changes in*
13 *state or federal laws and regulations that would affect those*
14 *costs, including increases in the minimum wage or increases in*
15 *minimum staffing requirements.*

16 *(ii) The costs described in clause (i) shall be reflected as an*
17 *add-on to the new rate or rates.*

18 *(iii) To the extent not prohibited by federal law or regulations,*
19 *add-ons to the rate or rates shall continue until those costs are*
20 *included in cost reports used to set the new rate or rates.*

21 *(2) Adjusted costs shall be divided into categories and treated*
22 *as follows:*

23 *(A) Fixed or capital-related costs shall include costs that*
24 *represent depreciation, leases and rentals, interest, leasehold*
25 *improvements, and other amortization. No update shall be*
26 *applied.*

27 *(B) Property taxes, where identified, shall be updated at a rate*
28 *of 2 percent annually.*

29 *(C) Labor costs, which shall be defined as a ratio of salary,*
30 *wage, and benefits costs to the total costs of each adult day*
31 *health care center, shall be updated based upon the labor study*
32 *conducted by the department and using industry-specific wage*
33 *data as reported by the adult day health care centers. The*
34 *separately billable services shall be updated by applying the*
35 *median market-based rate specific to the specialty service*
36 *category.*

37 *(D) All other costs shall include all other costs less fixed or*
38 *capital-related costs, property taxes, and labor costs. This cost*
39 *category shall be updated using the California Consumer Price*
40 *Index.*

1 (3) Prior to the implementation of this methodology, the
2 department shall take measures to ensure appropriate training of
3 state audit staff.

4 (o) The department shall provide updates on the rate
5 methodology to the appropriate fiscal and policy committees of
6 the Legislature. The appropriation for services paid under this
7 rate methodology shall be included in the annual Budget Act.

8 (p) Payment shall be for services provided in accordance with
9 an approved individual plan of care. Billing shall be submitted
10 directly to the department.

11 (q) Nothing in this section shall preclude the department from
12 entering into specific prospective budgeting and reimbursement
13 agreements with providers.

14 (r) Adult day health care centers may appeal findings that
15 result in an adjustment to the rate or rates pursuant to Section
16 14171 and to Article 1.5 (commencing with Section 51016) of
17 Chapter 3 of Division 3 of Title 22 of the California Code of
18 Regulations.

19 (s) (1) Notwithstanding Chapter 3.5 (commencing with
20 Section 11340) of Part 1 of Division 3 of Title 2 of the
21 Government Code, the department shall implement this section
22 by means of a provider bulletin or similar instruction without
23 taking regulatory action. By August 1, 2013, the department shall
24 adopt regulations in accordance with the requirements of
25 Chapter 3.5 (commencing with Section 11340) of Part 1 of
26 Division 3 of Title 2 of the Government Code.

27 (2) The department shall notify and consult with interested
28 stakeholders in implementing, interpreting, or making specific
29 the provisions described in this section.

30 (t) The department shall implement this section only to the
31 extent that federal financial participation is obtained.

32 SEC. 10. Section 14571.5 is added to the Welfare and
33 Institutions Code, to read:

34 14571.5. Federally qualified health centers shall be
35 reimbursed on a prospective payment system rate basis pursuant
36 to Section 14132.100 for the provision of adult day health care
37 services.